

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In re Matter of )

)  
Amendment to the Commission's )  
Regulatory Policies Governing )  
Domestic Fixed Satellites and )  
Separate International Satellite Systems )

IB Docket No. 95-41

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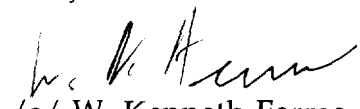
To: The Commission

**MOTION TO ACCEPT LATE-FILED  
OPPOSITION OF PANAMSAT CORPORATION**

PanAmSat Corporation ("PanAmSat"), pursuant to Section 1.46 of the Commission's Rules, respectfully requests that its attached Opposition in the above-captioned matter be made a part of the record even though it is being submitted one business-day late. The delay was caused by an administrative oversight by counsel.

PanAmSat's opposition focuses on core competitive issues related to the Commission's evolving satellite policies. Because of the importance of these issues and the fact that a brief delay in submitting this opposition will not prejudice the interests of other parties, PanAmSat asks that the Commission grant this motion for late filing of its opposition.

Respectfully submitted,

By:   
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May 22, 1996

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To: The Commission

**OPPOSITION OF PANAMSAT CORPORATION**

PanAmSat Corporation ("PanAmSat") hereby opposes the petition for partial reconsideration and request for immediate interim relief filed by Comsat Corporation ("Comsat") in the above-referenced proceeding. In its request, Comsat seeks interim authority to provide U.S. domestic services using Intelsat and Inmarsat satellites pending the Commission's resolution of the DISCO II rulemaking.

**Discussion**

In "DISCO I,"<sup>1</sup> the Commission modified and harmonized its rules pertaining to domestic and international fixed satellite systems. In particular, the Commission determined that all U.S.-licensed satellite systems should be allowed to provide either domestic or international service, subject only to market and spectrum scarcity limitations. DISCO I did not, however, resolve a wide range of issues relating to the provision of U.S. domestic service by non-U.S.-licensed satellites such as those operated by Intelsat and Inmarsat. Instead, the Commission indicated that those issues would be resolved in a subsequent rulemaking — DISCO II — for which a notice of proposed rulemaking recently was released.

In its petition for reconsideration and request for immediate interim relief, Comsat accuses the Commission of discriminating between Comsat and other U.S. companies. Comsat alleges that it "is now the only U.S.

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<sup>1</sup> Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, 11 FCC Rcd 2429 (1996).

provider unable to offer customers both domestic and international service on an integrated, 'one-stop' shopping basis."<sup>2</sup> This "discriminatory" treatment, in Comsat's view, violates U.S. policy with regard to the use and support of the Intelsat and Inmarsat systems.<sup>3</sup> Based on these arguments, Comsat requests that Intelsat and Inmarsat capacity be made available immediately for domestic use pending resolution of the DISCO II proceeding.

Comsat has misconstrued DISCO I, which regulates Comsat and other U.S. companies with an even hand. DISCO I permits all U.S. companies to use U.S.-licensed satellites to provide domestic and international satellite services. Comsat may provide such services via its Comstar system, or via the facilities of any other U.S.-licensed satellite system. The same is true for other U.S. companies. Similarly, DISCO I treats Comsat and other U.S. companies identically with respect to satellite systems, including the Intelsat and Inmarsat systems, that the U.S. has not licensed. Comsat may not use these systems to provide U.S. domestic service, subject to certain exceptions, and neither may other U.S. companies. These circumstances are the antithesis of discrimination.

Comsat's real complaint may be that DISCO I leaves intact the policies prohibiting the use of satellite systems not licensed by the U.S., including the Intelsat and Inmarsat systems, for U.S. domestic services. These policies apply to Comsat and other U.S. companies alike. Indeed, Comsat already has asked for, and been denied, the authority that it again seeks in the instant petition. When AMSC sought authority to use its domestic mobile satellite system to provide incidental international maritime service beyond the U.S. coastal waters, Comsat requested that the Commission grant AMSC's request only if it simultaneously allowed Comsat to provide certain U.S. domestic services using Inmarsat satellites. The Commission rejected Comsat's request, noting that the use of Inmarsat capacity to provide U.S. domestic service would raise a number of concerns that it would address in other proceedings.<sup>4</sup>

For similar reasons, the Commission had good reason in DISCO I to defer resolution of issues pertaining to non-U.S. satellite systems. Allowing non-U.S.-licensed satellites to provide U.S. domestic service raises a variety of issues not implicated by the mere harmonization of regulatory policies with

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<sup>2</sup> Comsat Petition at 5.

<sup>3</sup> Id. at 8- 11.

<sup>4</sup> See In re Application of AMSC Subsidiary Corporation, ITC-95-280 (rel. Feb. 22, 1996) ¶ 6.

respect to U.S.-licensed domestic and separate system satellites. For instance, as the Commission explained in the DISCO II NPRM, the provision of domestic service by non-U.S.-licensed satellites may raise spectrum management, technical and interference coordination issues that normally would be resolved during the FCC licensing process.<sup>5</sup> Likewise, the use of satellites licensed by foreign administrations to provide U.S. domestic service implicates competitive concerns not presented when the Commission is dealing solely with U.S.-licensed satellite operators.<sup>6</sup> Indeed, because of their unique regulatory status, satellites operated by intergovernmental organizations such as Intelsat and Inmarsat present some of the most difficult issues with respect to the use of these satellites to provide U.S. domestic service.<sup>7</sup> Thus, it was entirely appropriate for the Commission to defer treatment of these complex issues until it was able to supplement the record assembled in DISCO I.

The Commission now is in the process of doing so. In the DISCO II NPRM, the Commission has summarized fully the relevant concerns and offered proposed rules related to the provision of U.S. domestic service by non-U.S.-licensed satellites such as those operated by Intelsat and Inmarsat. Granting Comsat's request for interim authority, therefore, would short-cut the Commission's own proceeding. Put simply, Comsat's request is premature.

For these reasons, PanAmSat urges the Commission to deny Comsat's petition for partial reconsideration of DISCO I and its request for interim

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<sup>5</sup> See DISCO II NPRM ¶10.


<sup>6</sup> See id. ¶ 11.

<sup>7</sup> See, e.g., id. ¶¶ 65-74.

authority to provide U.S. domestic service using Intelsat and Inmarsat satellites.

Respectfully submitted,

PANAMSAT CORPORATION

  
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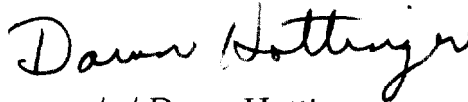
May 22, 1996

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition of PanAmSat was sent by hand this 22nd day of May, 1996, to each of the following:

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